

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

RODRECUS WEBSTER, #187557

§

VS.

§

CIVIL ACTION NO. 5:08cv31

TRACY BECKETTE

§

ORDER OF DISMISSAL

Plaintiff Rodrecus Webster, an inmate confined at the Bowie County Correctional Center, filed the above-styled and numbered civil rights lawsuit. The complaint was referred to United States Magistrate Judge Caroline M. Craven, who issued a Report and Recommendation concluding that the Defendant's motion to dismiss the lawsuit should be granted. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit. The Plaintiff is seeking release from custody, and he has filed the wrong type of lawsuit. He should have filed a petition for a writ of habeas corpus, but only after exhausting his state habeas corpus remedies. Therefore the findings and conclusions of the Magistrate Judge are adopted as the findings and conclusions of the Court. It is accordingly

ORDERED that the Defendant's motion to dismiss (docket entry #9) is **GRANTED**. It is further

ORDERED that the complaint is **DISMISSED** without prejudice pursuant to Fed. R. Civ. P. 12(b)(6). It is further

ORDERED that all motions not previously ruled on are **DENIED**. It is finally

ORDERED that the Clerk shall mail a § 2254 habeas corpus form to the Plaintiff with this
Order of Dismissal.

SIGNED this 29th day of April, 2008.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE